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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,274	06/11/2002	Eric Lechevin	LAVOII.001APC	4287
20995 7590 08/16/2010 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER				
LE, MARK T				
ART UNIT		PAPER NUMBER		
3617				
NOTIFICATION DATE		DELIVERY MODE		
08/16/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
efiling@kmob.com  
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# Office Action Summary

**Application No.**

10/031,274

**Applicant(s)**

LECHEVIN ET AL.

**Examiner**

MARK T. LE

**Art Unit**

3617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-34 is/are pending in the application.
- 4a) Of the above claim(s) 24-28, 32 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18, 19, 29-31 and 34 is/are rejected.
- 7) ☒ Claim(s) 20-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's election without traverse of Species I, claims 18-23, 29-31 and 34, in the reply filed on June 28, 2010, is acknowledged.
2. In the instant specification, it is noted that the different embodiments of the present invention are described as being shown in Figures 6-8. Therefore, it is not clear as to whether the structures shown other Figures of the instant drawings are prior art structures. Clarification is required.

It should be further noted that any of the Figures of the instant drawings that are prior art structures must be labeled as "Prior Art" because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Claims 29-31 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 29, the expression "a generator configured to generate at least two current or voltage discontinuities ... when passing one of the two tuning blocks" is not clear, and it appears to be inconsistent with the present invention described in the

instant specification. Note that the two current or voltage discontinuities of the present invention, as described in the instant specification, are produced in association with passing the two tuning blocks instead of passing just one tuning block. Correction or clarification is required.

In claim 34, line 3, "the first frequency" lacks antecedent basis.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 29-31 and 34 (34 as best can be determined) are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (US 4,270,716).

Anderson, Fig. 1, shows an installation having all of the features, as broadly recited in the instant claims, including track section 102 readable as an electric joint between two track sections 100 and 104; wherein, electric joint 102 includes first and second tuning blocks 112, and transmitter F2,F3, which inherently requires a generator for generating current or voltages to be transmitted by transmitters F2, F3. Such current or voltages are considered to have discontinuities detectable by antenna 116 of vehicle 106 passing the tuning blocks. Regarding the various statements of intended uses recited in the instant claims, note that since the structure Anderson is capable of the instant claimed intended uses, the instant claimed intended use limitations are considered met.

Regarding the instant claimed generator including a loop associated with the second tuning block, as recited in instant claim 30, consider loop 112 associated with transmitter F2 of Anderson. As to the instant claimed power supply for a current at a first frequency of the first tuning block, as recited in the latter part of claim 30, note that the generator of Anderson inherently requires a power supply for generating a current at a first frequency of the first tuning block at F3, as broadly recited in instant claim 30.

Regarding instant claim 31, note that the loop 112 at the second tuning block of F2 of Anderson is arranged in series with the first tuning block at F3, as broadly claimed.

Regarding instant claim 34, consider antenna 116 and receiver 200 of Anderson; wherein, receiver 200 is considered to require to be set at a first frequency by some form of filters so as to be operable with transmitter F3.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 18-19 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Prior art describes in the Description of the Related Art of the instant specification.

On page 1, lines 20-27, of the instant specification, a known practice of measuring the speed of a vehicle is described, which includes the use of signals provided by beacons along a track, and a vehicle antenna detecting passage of the vehicle over the first and second beacons so as to determine the vehicle speed basing on the time traveled and the distance between the two beacons. It is noted that the Prior art differs from the instant claimed invention in that the signals provided by the first and second beacons of the Prior art are not in the form of first and second discontinuities in currents or voltages provided by first and second tuning blocks of an electric joint, as recited in the instant claims.

On page 2, lines 5-20 of the instant specification, wherein, the tuning blocks at electric joints providing strong discontinuities at the moments of passing of the vehicle axles are known. Such strong discontinuities are readable as beacon signals. Therefore, it would have been obvious to one skilled in the art to use signals in the form of current or voltage discontinuities, described on page 2 of the instant specification, as the beacon signals in the Prior art structure, described on page 1 of the instant specification, so as to achieve expected advantages, such as allowing the use of

existing railroad equipments, e.g. the use of existing beacon signals from current or voltage discontinuities associated with the existing tuning blocks, for reducing costs.

Regarding the method steps recited in the instant method claims, note that the operations of the Prior art structure, as modified above, are considered to require the method steps as broadly claimed.

Regarding the instant claimed first discontinuity operated at a first frequency, as recited in instant claim 19, note that the Prior art structure, as modified above, includes a first discontinuity associated with the first tuning block at a frequency that is readable as a first frequency, as broadly claimed.

8. Claims 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK T. LE whose telephone number is (571)272-6682. The examiner can normally be reached on Mon-Fri, between 8:15-4:45 (Teleworking).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Tuan Le  
Primary Examiner  
Art Unit 3617

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Primary Examiner, Art Unit 3617